

DA 99-265

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)
Long-Term Telephone Number)
Portability Tariff Filings of)
Ameritech, GSTC, GTOC, Pacific,)
and Southwestern Bell)

CC Docket No. 99-35

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 1999

Released: January 29, 1999

By the Chief, Competitive Pricing Division:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we suspend for one day and set for investigation tariffs filed by several incumbent local exchange carriers (LECs) seeking to establish rates, terms, and conditions for the long-term number portability query service and end-user charges.¹ The incumbent LECs filed their tariff transmittals on January 15, 1999 with an effective date of February 1, 1999. Petitions challenging various provisions of the tariffs were filed on January 21, 1999 by AT&T Corporation (AT&T) and Time Warner Telecom Holdings Inc. (Time Warner).² On January 27, 1999, Ameritech Operating Companies, GTE Service Corporation and SBC Communications Inc. filed replies to the petitions.³ The Bureau will issue a separate order designating issues for investigation.

¹ Appendix A lists the incumbent LECs that filed tariffs and their tariff transmittal numbers.

² AT&T Petition to Reject or Suspend Tariffs, filed Jan. 21, 1999 (AT&T Petition); Time Warner Petition to Suspend for One Day and Set for Investigation, filed Jan. 21, 1999 (Time Warner Petition).

³ Ameritech Reply to Opposition, filed Jan. 27, 1999; filed Jan. 27, 1999; Reply and Opposition of GTE, filed Jan. 27, 1999; SBC Communications, Inc. Reply to Petitions to Reject or Suspend Tariffs, filed Jan. 27, 1999.

II. BACKGROUND

2. On May 12, 1998, the Commission issued the *Third Report and Order*,⁴ implementing section 251(e)(2) of the Communications Act of 1934, as amended,⁵ and promulgated rules governing long-term number portability cost recovery. The Commission determined in the *Third Report and Order* that incumbent LECs may recover their carrier-specific costs directly related to providing long-term number portability in two federal charges: (1) a monthly number portability charge to commence no earlier than February 1, 1999, that applies to end-users;⁶ and (2) a number portability query service charge that applies to carriers on whose behalf the incumbent LEC performs queries.⁷ The Commission delegated authority to the Common Carrier Bureau (Bureau) to determine appropriate methods for apportioning joint costs among portability and nonportability services and to issue any orders to provide guidance to carriers before they file their federal tariffs.⁸

3. On December 14, 1998, the Bureau issued the *Cost Classification Order*, addressing the general standards by which incumbent LECs should identify the carrier-specific costs directly related to providing long-term number portability and discussing the methodologies for measuring the eligible number portability costs.⁹ The Bureau also provided guidance to the incumbent LECs on the allocation of the eligible costs among the number portability end-user, pre-arranged query, default query, and database query charges. Finally, the Bureau discussed the specific cost support the incumbent LECs must provide with their tariff filings.

III. DISCUSSION

4. We find that AT&T and Time Warner's petitions to suspend and investigate the incumbent LECs' long-term number portability tariffs raise substantial questions of lawfulness

⁴ In the Matter of Telephone Number Portability, *Third Report and Order*, 13 FCC Rcd 11701, 11723 at para. 35 (1998) (*Third Report and Order*).

⁵ 47 U.S.C. § 251(e)(2); see Telecommunications Act of 1996, § 101(a), § 251(e)(2), Pub. L. No. 104-104, 110 Stat. 56 (1996). Section 251(e)(2) of the Act provides that the costs of providing number portability "shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."

⁶ *Third Report and Order*, 13 FCC Rcd at 11776, para. 142; see also 47 C.F.R. §§ 52.33(a), (a)(1).

⁷ *Third Report and Order*, 13 FCC Rcd at 11778, para. 147; see also 47 C.F.R. §§ 52.33(a), (a)(2).

⁸ *Third Report and Order*, 13 FCC Rcd at 11740, para. 75.

⁹ In the Matter of Telephone Number Portability, Cost Classification Proceeding, CC Docket No. 95-116, *Memorandum Opinion and Order*, DA 98-2534 (Com. Car. Bur. rel., Dec. 14, 1998) (*Cost Classification Order*).

that warrant an investigation of these tariffs.¹⁰ These questions include, but are not limited to, the following: whether Ameritech, GSTC, GTOC, Pacific, and SWBT's methods of identifying eligible Operations Support Systems (OSS) costs are unreasonable; and whether Ameritech, Pacific, and SWBT have failed to correctly calculate signalling and switching systems costs. Furthermore, with respect to Ameritech, GSTC, GTOC, Pacific, and SWBT, we have identified issues that raise substantial questions of lawfulness and warrant investigation concerning allocation of number portability costs among number portability services.

5. In addition, we have identified other issues regarding Pacific and SWBT's filings that raise substantial questions of lawfulness and warrant investigation of these incumbent LECs' tariffs. These include, but are not limited to, the following issues: whether Pacific and SWBT's use of the incremental overheads proposed to state commissions for unbundled network elements in calculating number portability costs is unreasonable; whether Pacific and SWBT's use of the Switching Cost Information System (SCIS) and Common Channel Signalling Cost Information System (CCSCIS) cost models rather than actual expenditures is unreasonable; whether Pacific and SWBT's inclusion in number portability rates of costs for generic upgrades to switch software is unreasonable; and whether Pacific and SWBT's "nonrecurring" billing charges are unreasonable.

6. The rate proposals and the issues raised in the tariff filings for long-term number portability are novel and complex. This is the first time the incumbent LECs have filed tariffs and supporting documentation for both query services and an end user charge. We are therefore unable at this time to limit our investigation to discrete rates or provisions of the LECs' number portability filings. We will, accordingly, suspend the tariff filings of Ameritech, GTOC, GSTC, Pacific and SWBT for one day and initiate an investigation into the lawfulness of the proposed tariffs. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this Order. We may also, by order, identify discrete issues that do not warrant further investigation.

IV. *EX PARTE* REQUIREMENTS

7. This investigation is a permit-but-disclose proceeding and subject to the requirements under section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b).

¹⁰ 47 U.S.C. § 204(a).

V. ORDERING CLAUSES

8. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, the tariffs filed by Ameritech Operating Companies, GTE System Telephone Companies, GTE Telephone Operating Companies, Pacific Bell, and Southwestern Bell Telephone Company, as detailed in Appendix A, ARE SUSPENDED for one day and an investigation IS INSTITUTED.

9. IT IS FURTHER ORDERED that, pursuant to sections 204(a) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a) and 154(i), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's Rules, 47 U.S.C. §§ 0.91 and 0.291, Ameritech Operating Companies, GTE System Telephone Companies, GTE Telephone Operating Companies, Pacific Bell, and Southwestern Bell Telephone Company SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

10. IT IS FURTHER ORDERED that each local exchange carrier required to suspend its tariff revisions for one day pursuant to this Order, SHALL FILE a supplement advancing the currently scheduled effective date to January 31, 1999, and at the same time file a supplement reflecting the one day suspension. For this purpose, we waive sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58 and 61.59. Carriers should cite the "DA" number on the instant Order as the authority for the filings.

11. IT IS FURTHER ORDERED that all local exchange carriers noted above SHALL FILE these supplements no later than five business days from the release date of this Order.

12. IT IS FURTHER ORDERED that the petitions to suspend and investigate or reject the Local Number Portability Tariff Filings ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Jane E. Jackson". The signature is fluid and cursive, with the first name "Jane" and last name "Jackson" clearly legible.

Jane E. Jackson
Chief, Competitive Pricing Division
Common Carrier Bureau

APPENDIX A

TARIFF FILINGS SUBJECT TO INVESTIGATION IN CC DOCKET NO. 99-35

Issued: JANUARY 15, 1999

Effective: FEBRUARY 1, 1999

Ameritech Operating Companies	Transmittal No. 1186	Tariff FCC No. 2
GTE System Telephone Companies	Transmittal No. 271	Tariff FCC No. 1
GTE Telephone Operating Companies	Transmittal No. 1190	Tariff FCC No. 1
Pacific Bell	Transmittal No. 2029	Tariff FCC No. 128
Southwestern Bell Telephone Company	Transmittal No. 2745	Tariff FCC No. 73

Issued: JANUARY 28, 1999

Effective: FEBRUARY 1, 1999

Ameritech Operating Companies	Transmittal No. 1187	Tariff FCC No. 2
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